

CIVIL SERVICE COMMISSION MINUTES

May 5, 2010

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

Francesca Krauel
W. Dale Bailey
William O'Connor
A. Y. Casillas

Absent was: None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
Karen Landers, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission

June 2, 2010

SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING MINUTES
MAY 5, 2010

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters
and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California

| <u>Discussion Items</u> | <u>Continued</u> | <u>Referred</u> | <u>Withdrawn</u> |
|-------------------------|------------------|-----------------|------------------|
| 3, 4, 7 | | | |

COMMENTS: Motion by Casillas to approve all items not held for discussion; seconded by Bailey. Carried.

CLOSED SESSION AGENDA

County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.

A. Commissioner Bailey: CONSIDERATION OF PUBLIC EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) Veronica Aguilar, Esq. on behalf of **Ricardo Gutierrez**, former Health and Human Services Administrator III, appealing a Final Order of Removal from the Health and Human Services Agency.

B. Commissioner O'Connor: CONSIDERATION OF PUBLIC EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) **Heidi Kay**, former Office Assistant, appealing a Final Order of Removal and Charges from the Department of Parks and Recreation.

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OPEN SESSION AGENDA
County Administration Center, Room 358

Prior to the reading of the Open Session Agenda, Commissioner Krauel read the following:

Subsequent to the posting of the agenda for our meeting on May 5, 2010 the County Counsel, John J. Sansone, who is in the process of evaluating proposals to provide outside legal services to the Commission, requested that the full Commission participate in the process to select outside counsel. County Counsel has requested that the Source Selection Committee, which he established, determine which candidates to interview, and that the full Commission participate in interviews of the final candidates.

In order to place this item on today's agenda, it is necessary for our members to accept this off-agenda item by a 2/3 vote, finding that this matter came to the attention of the Commission after the agenda was posted and there is a need to take immediate action. The need to take immediate action is to complete the selection process prior to the Commission's next regular meeting on June 2, 2010. Therefore, I ask for a motion that we accept this off-agenda item.

Motion by Bailey to allow Item 7 to be added as an Off-Agenda Item. Seconded by O'Connor. Carried.

MINUTES

1. Approval of the Minutes of the regular meeting of April 7, 2010.

Approved.

CONFIRMATION OF ASSIGNMENT

2. Commissioner O'Connor: **2010-04**, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

DISCIPLINES

Findings

3. Commissioner Bailey: Veronica Aguilar, Esq. on behalf of **Ricardo Gutierrez**, former Health and Human Services Administrator

III, appealing a Final Order of Removal from the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of Ricardo Gutierrez, from a written Final Order of Removal removing him from the class and position of Health and Human Services Agency Administrator III (Class No. 5289) in the Health and Human Services Agency, was presented to the Civil Service Commission. The Commission appointed Commissioner W. Dale Bailey to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for hearing on March 18, 2010.

The Final Order of Removal was dated October 15, 2009, signed by Dale R. Fleming, Director, Strategic Planning and Operational Support, Appointing Authority, and that the causes of discipline were Cause I: You are charged with negligence resulting in harm or significant risk to the public or public service in violation of Civil Service Rule 7.2 (q). Cause II: You are charged with Incompetency in violation of Civil Service Rule 7.2(a). Cause III: You are charged with Insubordination in violation of Civil Service Rule 7.2(c). Cause IV: You are charged with failure of good behavior in violation of Civil Service Rule 7.2(r). Cause V: You are charged with inefficiency, in violation of Civil Service Rule 7.2(b).

Employee supervised a staff of four in the Agency's Strategic Planning and Operations Support division. Testimony and evidence in the hearing proved that Employee did not exhibit a sincere effort or concern regarding his work responsibilities. Employee fell asleep during meetings, failed to timely complete assignments, and was unavailable to and disengaged from his staff. His work efforts resulted in mistakes, risks, and actual damage to the County and the public. Employee had a record of prior discipline.

Based on the findings and conclusions set forth above, I hereby recommend that the Final Order of Removal be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Bailey to approve Findings and Recommendations; seconded by Casillas. Carried.

4. Commissioner O'Connor: **Heidi Kay**, former Office Assistant, appealing a Final Order of Removal and Charges from the Department of Parks and Recreation.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of Heidi Kay from a written Final Order of Removal and Charges removing her from the class and position of Office Assistant (Class No. 2700) in the Department of Parks and Recreation, was presented to the Civil Service Commission. The Commission appointed Commissioner Bill O'Connor to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for hearing on March 22, 2010.

The Final Order of Removal and Charges was dated October 8, 2009, signed by Brian Albright, Director, Appointing Authority, and that the causes of discipline were:
Cause I: You are guilty of discourteous treatment of the public or other employees, in violation of Civil Service Rule 7.2(h). Cause II: You are guilty of dishonesty in violation of Civil Service Rule 7.2(d). Cause III: You are guilty of insubordination in violation of Civil Service Rule 7.2(c).

Employee was an Office Assistant assigned to the reservation desk at the Main Office of the Department of Parks and Recreation. The Department terminated her employment as the result of four incidents in which she was allegedly rude and disrespectful to co-workers or members of the public. She had a record of two prior disciplines for similar conduct. The Department proved that Employee continued to engage in a pattern of discourteous, insubordinate, and unbecoming conduct despite the prior disciplines.

Based on the findings and conclusions set forth above, I hereby recommend that the Final Order of Removal be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by O'Connor to approve Findings and Recommendations; seconded by Casillas. Carried.

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OTHER MATTERS

Seal Performance Appraisal

5. **Denise Reiber**, Sheriff's Employee Relations Manager, and **2010-05**, Sheriff's Detentions Lieutenant, requesting the sealing of **2010-05's** performance appraisal covering the period April 15, 2008 through April 14, 2009.

RECOMMENDATION: Grant Request.

Staff recommendation approved.

6. Public Input. **None**

OFF AGENDA ITEM - SELECTION PROCESS FOR OUTSIDE COUNSEL

7. Consider County Counsel's request that the full Commission select the candidate to be hired as Commission's legal counsel.

RECOMMENDATION: Approve the request that the full Commission participate in interviews of the final candidates and select the candidate to be hired as Commission's legal counsel.

Staff recommendation approved.

ADJOURNED: 3:45 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: JUNE 2, 2010

ASSISTANCE FOR THE DISABLED:

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